

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GABINO GENAO,

Plaintiff,

-against-

CITY OF NEW YORK; MDC MAILROOM
OFFICER PEREZ; MAILROOM OFFICER
ESPINOSA; MDC WARDEN BANKS; MDC
DEPUTY OF SECURITY SHANNON; MDC
CAPTAIN COTTMAN; MDC PROGRAMS
CAPTAIN JOHN/JANE DOE; OSIU CHIEF
STUKES; SOCIAL SERVICES GLADDEN;
SOCIAL SERVICES FLORES,

Defendants.

20-CV-8722 (LLS)

ORDER OF DISMISSAL

LOUIS L. STANTON, United States District Judge:

Plaintiff, who is currently detained in the North Infirmary Command on Rikers Island, is proceeding *pro se* and *in forma pauperis* (IFP). Plaintiff filed this complaint under 42 U.S.C. § 1983, alleging that Defendants violated his constitutional rights by tampering with his legal mail on April 20, 2020; May 20, 24, 2020; July 8, 9, 2020; and August 12, 13, 2020. By order dated March 9, 2021, the Court directed Plaintiff to amend his complaint to address deficiencies in his original pleading. Because Plaintiff has not filed an amended complaint, this action is dismissed.

DISCUSSION

By order dated March 9, 2021, the Court construed Plaintiff's allegations as implicating both an access-to-courts claim and a general mail tampering claim. The Court found, however, that Plaintiff did not allege enough facts to suggest that Defendants interfered with his mail in a manner that rises to the level of a constitutional violation. The Court noted that Plaintiff is not a stranger to this Court, and that a review of the Public Access to Court Electronic Records

(PACER) system revealed that from June 23, 2020, through December 14, 2020, Plaintiff filed seven actions in this court.

Plaintiff has not filed an amended complaint as directed by the Court. On May 7, 2021, Plaintiff filed a letter advising the Court that the “[f]acility is interfering and delaying with submissions of my complaint as well as blatantly obstructing all legal mail minimum standards.” (ECF No. 17.) A review of the court’s docket in *Genao v. City of New York*, ECF 1:20-CV-6507, belies Plaintiff’s assertion. In that case, from February 28, 2021, through May 18, 2021, Plaintiff filed 11 submissions. (ECF Nos. 29, 32, 35, 37, 38-39, 41, 42, 45-47.) A review of the court’s docket in *Genao v. City of New York*, ECF 1:20-CV-4872, also belies Plaintiff’s assertion. From February 16, 2021, through July 19, 2021, Plaintiff filed 10 submissions. (ECF Nos. 22-23, 26, 32-33, 39, 45, 47-48.) Plaintiff’s assertion is further belied by a review of the court’s docket in *Genao v. City of New York*, ECF 1:20-CV-2441. In that case, Plaintiff submitted filings on February 16, 2021, (ECF No. 39), on February 28, 2021, (ECF No. 41), and on July 19, 2021, (ECF No. 47).

Because Plaintiff has not filed an amended complaint, as directed by the Court’s March 9, 2021 order, the complaint, filed IFP under 28 U.S.C. § 1915(a)(1), is dismissed under 28 U.S.C. § 1915(e)(2)(B)(ii).

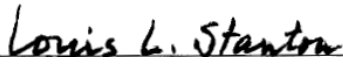
CONCLUSION

Plaintiff’s complaint, filed IFP under 28 U.S.C. § 1915(a)(1), is dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket.

SO ORDERED.

Dated: July 20, 2021
New York, New York



Louis L. Stanton
U.S.D.J.